



COUNCIL AGENDA MEETING DATE: September 4, 2018
REPORT

FROM: Steven Winkler, Public Works Director
BY: Carlos Solorio, Administrative Analyst
SUBJECT: CONSIDERATION OF AN AMENDED AND RESTATED COLLECTION SERVICES AGREEMENT WITH CALIFORNIA WASTE RECOVERY SYSTEMS.

RECOMMENDATION:

Receive a presentation and consider approval of an amended and restated collection services agreement with California Waste and Recovery Systems (Cal-Waste); and adopt a resolution 1) Authorizing the City Manager to make any minor editorial changes that may be needed to the agreement, upon concurrence of the City Attorney; 2) Setting January 15, 2019 at 6:00 PM as the date and time for a Public Hearing on the proposed refuse collection rates set forth in the collection services agreement; and 3) Authorizing and directing staff to prepare and mail Proposition 218 compliant public notices advising of the proposed rates, Public Hearing date, time, place and protest procedures.

BACKGROUND:

On June 19, 2007, after a series of good faith negotiations, Council approved the current collection services agreement with Cal-Waste, which had an initial term expiring on February 28, 2016 that was extended for an additional three years in July of 2013. In recognition of their long service to the community and commitment to high quality customer service at reasonable rates, on September 19, 2017 the Council authorized sole source negotiations with Cal-Waste for a long-term contract extension and appointed Council Members Curt Campion and Paige Lampson to an ad hoc advisory committee to provide guidance to staff during the negotiating process. On April 17, 2018 the Council approved an additional six month contract extension, until August 31, 2019 to allow additional time to complete the contract negotiations.

Under the existing contract Cal-Waste is entitled to an annual fee increase tied to a local Refuse Rate Index (RRI). The RRI is intended to compensate Cal-Waste for legitimate increases in the costs of providing services and includes factors such as increases in labor, fuel, landfill disposal, equipment replacement and general goods and services. It is noteworthy that Cal-Waste has

City Manager Approval:

Eugene M Palacios 8/30/18

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TYPE OF ITEM: COUNCIL ACTION: Introduced Approved Denied Revised
 Consent Reso No _____ Ord No _____
 Departmental Moved By:
 Public Hearing Seconded By:
 Successor Agency Vote:
 Other:

elected not to request the RRI increases over the past 5 years, resulting in significantly reduced refuse collection costs for both residential and commercial customers in Galt.

Over the past several years a number of new laws have been enacted that will have significant impacts on how waste is collected, recycling efforts and disposal requirements; and perhaps needless to say the costs of providing service. Key examples of regulatory changes include the following:

- Assembly Bill 341 (2011) – Set a statewide goal of diverting 75% of all waste produced away from landfill disposal. It also requires jurisdictions to implement mandatory commercial and multi-family residential complex (5 or more units) recycling programs.
- Assembly Bill 1826 (2014) – Effective April 1, 2016 required businesses, public agencies and multi-family residential dwellings generating 8 cu. yd. or more of organic wastes (including food waste) per week to utilize an organics recycling program. Effective January 1, 2017 the requirement was expanded to include entities generating 4 cu. yd. or more of organic wastes per week. Effective January 1, 2020 the State Department of Resources Recycling and Recovery has the authority to further expand the requirement to include entities generating 2 cu. yd. or more of organic wastes per week.
- Senate Bill 1383 (2016) – Set statewide goals for reducing organics (green wastes, wood, food wastes, etc.) disposed in landfills by 50% (from 2014 levels) by 2020; and to further increase the reduction to 75% by 2025.

Further complicating local waste diversion and recycling efforts are the recent losses of major international recycling markets, as China and other nations are no longer accepting a majority of the reclaimed materials produced in the United States for use in recycled product manufacturing. As a result, the development of expensive new regional collection, sorting, delivery and bio-recycling processes will be necessary to meet the regulatory requirements.

CURRENT SITUATION:

To meet the above noted challenges and address the City's future waste disposal needs, a comprehensive long-term solid waste collection services agreement is proposed. The proposed agreement is the result of eleven months of fact finding and good faith negotiations. It will provide Cal-Waste with a continued exclusive collection services franchise within the city limits, while requiring them to implement programs that will meet the noted regulatory requirements. The proposed agreement is based in large part upon the current collection services agreement with Cal-Waste, with the following key changes and provisions:

Term: Initial term is for twelve years. The agreement provides for an extension of the initial term for an additional ten years, provided Cal-Waste's ownership remains unchanged and services continue to be satisfactorily provided in accordance with the contract. A second additional ten year extension may be granted at the City's sole discretion.

Regulatory Requirements: Cal-Waste will remain responsible for complying with State diversion and recycling requirements based on current legislative requirements, and will indemnify the City for any fines that result from a failure to meet State mandates. Cal-Waste will be responsible for

the development and implementation of new programs needed to remain in compliance with State regulations, subject to City review and concurrence. This includes providing the City and State with information needed to comply with quarterly and annual State reporting requirements. Close coordination between the City and Cal-Waste will be required in both the development of new programs to meet the State requirements and public education related to the evolving regulatory requirements and the implementation of local programs and services.

Billing Services: The City will continue billing residential customers for refuse collection services as part of their utility bill. Due to historic problems with collecting payments from a group of customers within mobile home parks, the City will take over the billing of mobile home parks that elect to continue receiving residential service (individual containers for each unit). The City retains \$1.16 per billing cycle for each residential customer to offset the costs associated with billing services.

Bulky Waste Collection Service: Upon request, residential customers will be provided with one bulky waste collection service per year utilizing a 3.5 cubic yard 'HANDI-HAULER' container. In addition, they would be provided one additional bulky waste collection for up to three large, bulky items which combined do not exceed 3.5 cubic yards (e.g. furniture, large appliances and E-waste).

Equipment Repair and Replacement: Cal-Waste will repair or replace waste carts that are damaged. Cal-Waste will also keep their garbage collection trucks in a state of good repair and will replace them at ten year intervals. Given the uneconomical costs of providing a 20 gallon residential waste cart, it will be phased out under the new contract, with a 38 gallon cart becoming the new minimum size.

Service Rates:

Significant efforts have been put forth over the past six months to assure that Cal-Waste's rate proposals were both reasonable and sustainable, given the changes being experienced in the waste and recycling markets and pending regulatory requirements. This included employing the R3 Consulting Group as a third party consultant to analyze and provide advice regarding Cal-Waste's operating costs, financial data, market rate data and proposed rates. The end result is a rate structure that spreads needed rate increases over a three year period. Residential rates will increase initially between \$5.67 and \$14.27 per month depending upon the customer's collection container size. Rates will increase an additional \$4.00 to \$7.00 in year two. In year three, rates will increase between \$0.45 and \$1.21. The following table summarizes the proposed residential rates:

Proposed Monthly Residential Refuse Collection Rates*				
Trash Cart Size	Current Rate (last Cal-Waste increase 3/1/13)	Proposed Rate Effective 3/1/19	Proposed Rate Effective 3/1/20	Proposed Rate Effective 3/1/21
20 Gallon	\$21.15	\$29.00	\$33.00	\$33.45
38 Gallon	\$23.33	\$29.00	\$33.00	\$33.45
64 Gallon	\$25.72	\$34.00	\$38.50	\$39.03
64 Gallon - 2 carts	\$64.37	\$71.40	\$80.85	\$81.96
96 Gallon	\$39.73	\$54.00	\$61.00	\$62.21

* Rates include weekly trash service, bi-weekly 96-gallon yard & garden waste and 96-gallon recyclables collection, on alternating weeks

Commercial rates will also be increasing significantly over a three year period to offset the costs of commercial recycling and food waste programs that will be required under the pending new landfill diversion and recycling goals set by the State.

Indexed Rate Adjustments: Rates beyond year three will be adjusted annually on March 1st in accordance with the U.S. Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers: Water and sewer and trash collection services index (WST Index), with the minimum annual increase being 1% and the maximum annual increase capped at 5%.

Proposition 218: The proposed refuse collection rates and any future increases over and above the proposed annual WST Index adjustments will be subject to Proposition 218 – The Right to Vote on Taxes Act of 1996. This will require a 45 day notice outlining the proposed rates, setting a public hearing date and advising customers of their right to submit a written protest to the proposed rates. In the event of a majority protest, the City would be barred from implementing the proposed rates. If this were to occur, it would be necessary to re-open contract negotiations with Cal-Waste to seek reduced service levels and costs or seek open competitive bids through a request for proposals (RFP) process to see if better rates could be obtained.

Recyclables Credit: Ninety percent (90%) of any net annual revenues above \$230,000 derived from Cal-Waste’s sale of recyclable materials will be credited to the City and applied as an offset to the annual WST Index adjustment, for the benefit of customers.

New Transfer Station: Cal-Waste has indicated a strong interest in developing a new or expanded waste transfer station to cost effectively meet the forthcoming regulatory requirements. Any such effort is not a part of the proposed collection services agreement and would be required to go through normal permitting, environmental and land use processes. Any special considerations would be subject to a future meet and confer process and a separate agreement.

Change in Ownership: Given the long-standing relationship between the City and Cal-Waste and their historically high levels of customer service, the proposed contract has provisions that are specific to Cal-Waste that would not be offered to other bidders in a competitive setting. Accordingly, both parties have agreed on language specific to Cal-Waste’s operations, including

disincentives for the sale of the company or contract. Specifically, Cal-Waste must pay the City a sliding scale penalty amount if they sell the company/contract in the first five years, declining from \$3.0 million in year one to \$150,000 in year five. Further, if the company/contract changes ownership during the initial 12 year term the City is under no obligation to renew subsequent contract extension periods. In addition, should the company's performance diminish in a substantive way, under existing or new ownership, the City will have the contractual right to conduct a performance review and ultimately deny future contract extensions if warranted.

Contract Reopeners: To minimize up-front pricing impacts related to unknown future risks and events, the contract allows for the City or Cal-Waste to request an adjustment to rates resulting from material changes in law, extraordinary events, changes to City fees (Franchise Fee, Administration Fee, Billing Fee, etc.) and significant customer migration to differing can sizes in the first few years of the contract. If and when Cal-Waste constructs a new or expanded transfer station, the parties agree to meet and confer on potential adjustments to the rates charged for roll-off bin services or related programs to reflect the increased costs of acquiring, constructing and developing the New Transfer Station, as offset by increased Cal-Waste operating efficiencies and lowered operating costs.

ALTERNATIVES:

Provide direction to staff on desired changes to the proposed collection services contract (for further negotiation) or the City's approach to procuring services.

FISCAL ANALYSIS:

City costs to administer solid waste services and proposed new state reporting, waste diversion, and recycling program impacts are increasing. Cal-Waste pays Franchise (10%) and Administration Fees (2%) to the City based upon gross revenues collected. As refuse collection rates increase over time, the City's fee revenues also increase by a proportionate amount. In FY 2017-18 the Franchise and Administration fees totaled approx. \$400,000. It is anticipated that these fee revenues will fully off-set the City's increased costs going forward.

ATTACHMENTS:

Resolution
Draft Collection Services Agreement